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FISCAL IMPACT STATEMENT

LS 7195

BILL NUMBER: HB 1393

NOTE PREPARED: May 3, 2013

BILL AMENDED: Apr 26, 2013

SUBJECT: Judicial Technology and Automation.

FIRST AUTHOR: Rep. Steuerwald

FIRST SPONSOR: Sen. Kenley

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill has the following provisions:

- A. *JTOC Purpose* – It establishes the Judicial Technology Oversight Committee (committee) to: (1) conduct a continuous study of information technology applications for Indiana's judicial system; (2) make recommendations to the Division of State Court Administration (division) for the establishment of a pilot program concerning electronic filing; (3) allow public court records to be available on the Internet; (4) study the appropriate use of private sector vendors; and (5) make recommendations to the Supreme Court concerning the implementation of policies, standards, and rules that promote the effective use of technology and automation in Indiana courts.
- B. *Membership of JTOC* – It provides that the committee consists of: (1) the Chief Justice of the Supreme Court; (2) the chief information officer of the Office of Technology; (3) two members of the Senate; (4) two members of the House of Representatives; (5) one trial court judge; (6) two circuit court clerks, with one clerk for a county that does not operate under the state's automated judicial system and one clerk for a county that operates under the state's automated judicial system; (7) one attorney admitted to the practice of law in Indiana; and (8) an individual affiliated with a taxpayer organization.
- C. *Automated Record Keeping Fee* – It provides that the Automated Record Keeping Fee increases for two years from \$5 to \$7 for all civil, criminal, infraction, and ordinance violation actions except actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or

(2) deferral program agreement. It allocates the \$2 fee increase as follows: (1) \$2 to the state, if the county is operating under the state's automated judicial system; or (2) \$2 to the county if the county is not operating under the state's automated judicial system. It provides that the Automated Record Keeping Fee is \$5 for all civil, criminal, infraction, and ordinance violation actions resulting in the accused person entering into a: (1) pretrial diversion program agreement; or (2) deferral program agreement.

- D. *Release of Funds for the Judicial Technology and Automation Project* – It allows the Budget Committee to release funds for the Judicial Technology and Automation Project after the Division of State Court Administration certifies in conjunction with the Indiana Office of Technology that the Judicial Technology Automation Project is in compliance with certain information-sharing and exchange requirements.
- E. *Charge to the Division of State Court Administration* – It requires the Division to develop and implement a standard protocol for sending and receiving certain court data by December 31, 2013, and requires the standard protocol to permit vendors to access the system on an equitable basis.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Judicial Technology Oversight Committee (JTOC)* – The bill establishes the JTOC. This 11-member committee will be staffed by the Division of State Court Administration. Committee members who are not members of the General Assembly are paid per diem, mileage, travel allowances, and other expenses from the appropriations to the Supreme Court. Members of the committee who are members of the General Assembly will receive per diem, mileage, travel allowances, and other expenses from the appropriations to the Legislative Council or Legislative Services Agency and are reimbursed in the same manner as members of interim study committees.

JTOC is to meet at the call of the chair, who is the Chief Justice of the Supreme Court or the Chief Justice's designee. The committee is to meet once each quarter in FY 2014, and twice each year for FY 2015 and each year after. JTOC is to study information technology applications for the judicial system, develop long-range strategy for technology and automation, and make recommendations to the Supreme Court that promote the effective use of technology and automation in Indiana Courts. The committee may employ an independent consultant to assist with its study.

Judicial Technology and Automation Committee (JTAC) – JTAC was established by the Indiana Supreme Court in its Administrative Rule 4(B). The bill does not repeal this committee or stop the committee from meeting. The eight members of JTAC are judges from various types of courts around the state, and they are entitled to reimbursement of travel and other reasonable expenses. However, the committee generally meets remotely.

The Committee's charge includes but is not limited to the development of a long-range strategy for technology and automation in Indiana's judicial system, including possible approaches for funding and implementation as well as the development of standards for judicial information case management systems, judicial data processing, electronic filing, deployment and use of judicial information on the Internet, and for all related technologies used in the courts.

Release of Funds for the Judicial Technology and Automation Project – No additional costs are anticipated

because the Indiana Office of Technology would perform the evaluation. The information-sharing and exchange requirements include the following:

(1) Examining the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
(2) Collecting and compiling statistical data and other information on the judicial work of the courts in Indiana. All justices of the Supreme Court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as requested concerning the nature and volume of judicial business. The information must include the following:

- (A) The volume, condition, and type of business conducted by the courts.
- (B) The methods of procedure in the courts.
- (C) The work accomplished by the courts.
- (D) The receipt and expenditure of public money by and for the operation of the courts.
- (E) The methods of disposition or termination of cases.

(3) Preparing and publishing reports, not less than one or more than two times per year, on the nature and volume of judicial work performed by the courts as determined by the information required above.

(4) Serving the Judicial Nominating Commission and the Judicial Qualifications Commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administering the civil legal aid fund as required by IC 33-24-12.

(6) Administering the Judicial Technology and Automation Project Fund.

(7) Developing and implementing a standard protocol for the exchange of information, by not later than December 31, 2013:

- (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
- (B) at the option of the county prosecuting attorney, for a prosecuting attorney's case management system; a county court case management system; and a county court case management system developed and operated by the Division of State Court Administration; to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
- (C) between county court case management systems and the case management system developed and operated by the Division of State Court Administration.

(8) Establishing and administering an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

Explanation of State Revenues: *Automated Record Keeping Fee:* The bill increases the Automated Record Keeping Fee from \$5 to \$7 between FY 2014 and FY 2015. The \$2 increase in the fee for certain actions is expected to generate \$1.96 M in new revenue. At least \$800,000 would be deposited into the State User Fee Fund each year, while \$1.16 M would be deposited into the county clerks' record perpetuation funds.

The State User Fee Fund would receive the full \$2 for each case filed from counties in which the Odyssey Case Management System has been fully implemented and from city and town courts. If the county does not currently use Odyssey or if only a portion of the courts in the county use Odyssey, the State User Fee Fund would not receive a fee increase. Once counties wishing to use Odyssey have this case management system fully implemented in all of the courts in their county, the full \$2 of the fee increase would be deposited into the State User Fee Fund.

As more counties adopt Odyssey as their case management system, a portion of the revenue would shift from the clerks' record perpetuation funds to the State User Fee Fund.

Additional Details:

Estimating the Eligible Cases: The collections for state funds from the Automated Record Keeping Fee in 2011 totaled almost \$6.0 M. Assuming the average fee collected was \$6 in 2011 (the fee decreased from \$7 to \$5 on July 1, 2011) and accounting for receipt of 80% of the fee by counties that do not operate under the state's automated judicial record keeping system (Odyssey), it is estimated that about 1.02 million cases will be subject to this added fee after subtracting cases that were deferred or diverted. About 95,000 cases were either deferred or diverted in 2011. The fee increase would not apply to these cases.

Estimating New Revenue: The fee increase could generate an estimated \$1.96 M each year. The State User Fee Fund would continue to receive 100% of the fee revenue from counties where the trial courts have fully adopted Odyssey. LSA estimates that \$800,000 would be deposited into the State User Fee Fund from the fee increase from these counties.

For counties not using Odyssey or have some, but not all, courts in which Odyssey was implemented, during FY 2014 and FY 2015, \$5 of the fee revenue would be deposited in the State User Fee Fund and \$2 of the fee revenue would be deposited into the clerk's record perpetuation fund in each county. An estimated \$460,000 would be generated from counties that are either on the waiting list to have Odyssey implemented or are partially implemented with some but not all courts in the county operating with Odyssey. (See *Explanation of Local Revenues*) The State User Fee Fund would likely receive more money from these counties depending on how many have Odyssey fully implemented in their courts in the next two fiscal years.

In FY 2018, after the \$2 fee increase expires, these distributions would return to the current 80% to the State User Fee Fund and 20% to the clerk's record perpetuation fund. All fee revenue from city and town courts is deposited into the State User Fee Fund whether or not they use Odyssey.

The following table shows how revenue from the Automated Record Keeping Fee will be distributed based on whether they use or do not use the Odyssey system.

Fee Revenue Deposited into State User Fee Fund From Trial, City, and Town Courts		
	Between July 1, 2013, and June 30, 2015	After June 30, 2015
Using Odyssey	\$7.00	\$5.00
Not Using Odyssey and Not Intending to Adopt Odyssey or Committed to Using Odyssey not Fully Implemented	\$5.00	\$4.00

Based on these percentages, the following table shows the estimated revenue that this new fee will generate.

New Revenue (in \$M) Judicial Technology and Automation Project from Increasing the Automated Record Keeping Fee to \$7 for FY 2014 and FY 2015														
Odyssey Status	No.	Revenue		Current Fee**		Estimated Cases		Deferred/ Diverted		Eligible Cases		Added Fee		New Revenue
Trial Courts – Not Participating	50	\$672,091	÷	\$4.80	=	140,019	-	21,587	=	118,432	x	\$0	=	\$0.00
Trial Courts – on Waiting List	47	\$1,169,708	÷	\$4.80	=	243,689	-	12,650	=	231,039	x	\$0	=	\$0.00
Trial Courts – Partially Implemented	6	\$1,465,149	÷	\$6.00	=	244,192	-	13,343	=	230,849	x	\$0	=	\$0.00
Trial Courts – Fully Implemented	66	\$1,244,128	÷	\$6.00	=	207,355	-	15,047	=	192,308	x	\$2	=	\$0.38
City, Town, or Township Courts	83	<u>\$1,441,991</u>	÷	\$6.00	=	240,332	-	32,365	=	207,967	x	\$2	=	<u>\$0.42</u>
		\$5,993,067												\$0.80
*Odyssey is the court's electronic record system. A court that does not use Odyssey splits the fee, currently sending 80% to the State User Fee Fund and retaining 20% for the clerk's record perpetuation fund. For courts with Odyssey, 100% of the fee goes to the State User Fee Fund. **LSA uses the state share of the Automated Record Keeping Fee (\$6.00 x 80% = \$4.80) to estimate the number of cases in counties without Odyssey that would be affected by this bill.														

Under IC 33-37-7-2, fees from actions that result in the accused person entering a pretrial diversion or deferral program are deposited in the state Homeowner Protection Unit Account. Under the bill, the amount and deposit of these funds will not change.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Automated Record Keeping Fee:* For counties without the Odyssey system, the added \$1 is estimated to increase the funds deposited in county clerks' Record Perpetuation Fund by \$1.16 M.

New Revenue (in \$M) Judicial Technology and Automation Project from Increasing the Automated Record Keeping Fee to \$7 for FY 2014 and FY 2015													
Odyssey Status	No.	Revenue		Current Fee**		Estimated Cases		Deferred/ Diverted		Eligible Cases		Added Fee	New Revenue
Trial Courts – Not Participating	50	\$672,091	÷	\$4.80	=	140,019	-	21,587	=	118,432	x	\$2	= \$0.24
Trial Courts – on Waiting List	47	\$1,169,708	÷	\$4.80	=	243,689	-	12,650	=	231,039	x	\$2	= \$0.46
Trial Courts – Partially Implemented	6	\$1,465,149	÷	\$6.00	=	244,192	-	13,343	=	230,849	x	\$2	= \$0.46
													\$1.16
*Odyssey is the court's electronic record system. A court that does not use Odyssey splits the fee, currently sending 80% to the State User Fee Fund and retaining 20% for the clerk's record perpetuation fund. For courts with Odyssey, 100% of the fee goes to the State User Fee Fund. **LSA uses the state share of the Automated Record Keeping Fee (\$6.00 x 80% = \$4.80) to estimate the number of cases in counties without Odyssey that would be affected by this bill.													

State Agencies Affected: JTAC, Supreme Court, Division of State Court Administration.

Local Agencies Affected: County clerk's record perpetuation fund.

Information Sources: Mary DePrez, JTAC; 2010 and 2011 *Trial Court Statistics*; Auditor's Data; <http://www.in.gov/judiciary/jtac/>.

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